

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ELIZABETH BARRY,	:	
	:	
Plaintiff,	:	Case No. 2:09-CV-1092
	:	
v.	:	Judge GARY L. LANCASTER
	:	
THE PENNSYLVANIA STATE	:	
UNIVERSITY, PAULA MILONE-	:	Complaint filed: 08/17/09
NUZZO, RAYMONDE BROWN and	:	
EMMANUEL OSAGIE,	:	<i>Electronically Filed</i>
	:	
Defendants.	:	

ORDER

AND NOW, this 14th day of January, 2010, upon considration of potential issues under the Federal Educational Rights and Privacy Act, 20 U.S.C. §1232g, with respect to disclosure of education records, which issues were raised by the parties at the initial Rule 16 scheduling conference on December 8, 2009, the Court enters the following Order:

1. Defendants shall produce to Plaintiff those documents identified in Defendant's initial disclosures pursuant to Fed.R.Civ.P. 26(a)(1)(A). Said

documents shall include, but not be limited to, documents defined as "education records," under FERPA regulations, 34 C.F.R. §99.3.

2. Prior to producing said documents, the Defendants shall make a reasonable effort to notify all students whose education records are part of said documentation of Defendants' intention to comply with this order, so that the student may seek protective action, pursuant to 34 C.F.R. §99.31(a)(9)(ii) or, alternatively, inform Defendants that he or she does not intend to seek protective action.

3. All students so notified shall have fourteen (14) days from the date of the Defendants' notification letter to seek a protective order to prevent and/or limit production of records containing their personally identifiable information. If a student so notified does not seek a protective order within said period of time, Defendants shall produce said records with all other documentation required to be produced by this Order. However, if one or more students do seek a protective order, all documents required to be produced by Defendants pursuant to this order shall be withheld pending the Court's resolution of the student(s)'s motions.

4. All documents produced in response to this Order shall be marked as "confidential" and shall be shall not be disclosed to any person other than the following who are deemed to be "Qualified Persons" under this Order unless

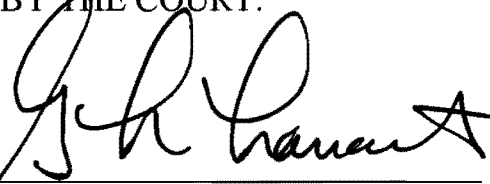
disclosure is required by subpoena or by order of a court or administrative agency of competent jurisdiction:

- (a) Parties to this action;
- (b) Counsel for parties to this action and their employees and any cooperating attorneys and their employees who may assist counsel for any party with the litigation of this case;
- (c) Employees of any party;
- (d) Deponents or potential witnesses who have previously been disclosed to the other parties pursuant to Fed.R.Civ.P. 26(a)(1)(A) or disclosed by any party as a potential deponent or trial witness. A deponent or potential witnesses may review, but not retain, confidential information that is reasonably related to discoverable information that such deponent and/or witness may have or testimony that such deponent and/or witness may give in this matter;
- (e) Experts or consultants retained by a party for purposes of this litigation and their respective staffs;
- (f) Contractors or persons specifically engaged for the purpose of copying documents or information or organizing or processing documents or information; and,
- (g) The Court.

5. Confidential information produced in this action may, subject to the rules of evidence and other orders of this Court, be used at trial or at any hearing before a judicial officer, under such rules and conditions as the Court may hereafter provide.

6. All confidential information which is produced in this action shall be used by the nonproducing party solely in the course of and for purposes of this action, and any appeal therefrom. Confidential information shall not be released or made public.

BY THE COURT:



Gary L. Lancaster
Chief U.S. District Judge